Trade Practice Act - Annual Report

Introduction

During 1985, there were seven Assurances of Voluntary Compliance, three Prosecutions, and two Declaration/Injunctions completed under the Trade Practice Act.

Misleading or deceptive sales representations are still commonly found in the itinerant sales field, and this is illustrated in some of these completed cases.

There is also evidence of the vulnerability of elderly homeowners who are often ill equipped to determine whether house repairs are necessary, and what constitutes a fair price.

ENFORCEMENT PROCEEDINGS COMPLETED IN 1985

No.	ENFORCEMENT ACTION	SUBJECT	PARTICULARS OF INVESTIGATION	COMPLETED
1.	Assurance of Voluntary Compliance	T.W.E. COMMERCIAL AND RESIDENTIAL BUILDERS LTD.	This supplier represented that he used unemployed workers to carry out home renovations, whereas on occasion, the work was subcontracted to existing suppliers for less than the original contract price.	On September 11, 1985, the company signed an undertaking not to represent itself as a company employing previously unemployed workers when this is not the case; to disclose to consumers before completing a contract if the work is to be done by a subcontractor; and the price negotiated with the subcontractor where applicable.
2.	Assurance of Voluntary Compliance	MULTILAND INVESTMENTS LTD. dba BARNET TOYOTA	Supplier represented to a consumer that extensive engine repairs were needed costing over $1,000 when it was found that the symptoms were caused by a plugged p.c.v. valve, and a leaking oil pressure switch. These repairs, an engine tune up and brake work, were completed by another supplier for less than $319.	On December 24, 1985, an undertaking by the supplier promised to ensure that no further representations would be made to consumers that service parts or repairs were needed when they were not, and they agreed to refund the cost of a B.C.A.A. inspection to the to the consumer.

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3.	Assurance of Voluntary Compliance	AACRO BUILDING PRODUCTS LTD. and SALES MANAGER, HYMAN GREENBERG, FIRST CITIZENS MORTGAGE CORPORATION and PRESIDENT ROBERT W. WILLIAMS, BAYFIELD INVESTMENT SERVICES LTD. and PRESIDENT GORDON HOWARD WINTROP.	These suppliers, individually or jointly, represented that contracts for the application of house siding involved: special low prices or discounts for promotional consideration; bank rate financing; gross overpricing and the contracts were offered to homeowners who had no reasonable prospect of full payment; and the contracts did not contain the statutory right of rescission. In relation to the mortgage transactions, it is alleged that homeowners were pursuaded to sign uncompleted, or blank documents; that interest rates were misrepresented; legal fees were charged when no lawyer was involved; the disclosure form was not provided until after the mortgage was signed where contract terms were harsh or adverse; and contained an unreasonable penalty fee for payout before maturity. All three suppliers failed to disclose, or denied, that financing was by way of mortgage, and that they disuaded consumers from arranging their own financing. Homeowners were taken advantage of by reason of their inability to protect their own interests because of physical infirmaty, age, or an ability to understand the transaction.	On December 19, 1985, these suppliers signed an undertaking which included clauses designed to prevent any repetition of the criticized representations and conduct, and also provided a very unusual form of redress where consumers would be provided an option of paying a sum which was 10 percent less than the face value of the original contract to discharge the the mortgage, or having this sum constitute the mortgage total to be amortized over 5 years.

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4.	Assurance of Voluntary Compliance	CAPRON TRADING dba NOR-PAC MARKETING LTD.	During routine telephone solicitations this supplier claimed that recipients were especially selected, and that free subscriptions were being offered on a system of weekly payment. These representations were not true, and the contract specified monthly payments of $12.50 for 24 months, with a late payment penalty. The contract also failed to quote the total price, which was normally $289.50.	On December 30, 1985, an undertaking by the supplier promised to ensure that its employees do not make misleading or specific representations, and to refrain from the critized practices.
5.	Prosecution	Bachittar Singh Sihota dba INTERIOR FURNITURE LIQUIDATORS	Supplier claimed 40 to 70 percent savings, but refused to provide more than a 20 percent reduction on a purchase price of nearly $7,000.	Supplier pleaded not guilty to a charge under the Trade Practice Act, but was convicted and fined $1,000.
6.	Assurance of Voluntary Compliance	CONSOLIDATED FOODS CORPORATION OF CANADA LTD dba ELECTROLUX CANADA	The supplier engaged in an unconscionable practice by selling an expensive vacuum and accessories to an uneducated consumer who was on social assistance.	On May 25, 1985, an undertaking by the supplier promised not to repeat these practices and provided redress for the consumer.
7.	Assurance of Voluntary Compliance	SEARS CANADA LTD.	The supplier formed a complete brake job on a test vehicle whose brakes were in perfect condition except for a minor fault.	On February 5, 1985, this supplier undertook to comply generally with the Trade Practice Act; promised to post signs in its automotive centres explaining the company's policy regarding brake repairs; and that it does not perform partial brake repairs or overhauls.

ENFORCEMENT PROCEEDINGS COMPLETED IN 1985

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8.	Prosecution	name withheld	This supplier failed to provide consumers with 85 percent of their anticipated tax refunds; to remit surplus payments to these consumers; to document transactions in writing, and submit an annual report to the Minister.	Following an extensive voir dire, documentary evidence which had been seized during the course of the investigation could not be introduced, and Crown decided to stay the the charges both under the Trade Practices Act and the Criminal Code.
9.	Assurance of Voluntary Compliance	Jessie Grieve dba RICHMOND CHIMNEY SERVICE	This supplier claimed that fireplaces and chimneys were in dangerous condition requiring immediate repair, when most repairs were unnecessary.	Application was made for a Declaration and Injunction. After an Interim Injunction had been granted in September 1984, an undertaking was signed on December 10, 1984, binding the supplier to comply generally with the Trade Practices Act and Consumer Protection Act; provide consumers with a written contract, including the statutory notice of cancellation; and to refrain from performing unnecessary work and charging prices which grossly exceed the prices offered by other suppliers.
10.	Declaration/Injunction	name withheld	Supplier offered loans and debt consolidation to people with severe financial problems. Consumers rarely saw any benefit for the $187 they paid.	The supplier returned to Alberta after the Writ and Statement of Claim were issued.

ENFORCEMENT PROCEEDINGS COMPLETED IN 1985

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11.	Prosecution	name withheld	Supplier advertised 40 percent savings on diamond studded earrings, and supplied stones to a consumer which were not genuine.	On May 16, 1985, the Judge quashed the charges stating that the information lacked sufficient detail, and failed to identify the transaction.
12.	Declaration/Injunction	KENITEX CANADA LIMITED DEBONAIR INDUSTRIES LTD. H.I.C.O. HOME IMPROVEMENT GROUP OF COMPANIES INC. ALSO KNOWN AS THE HOME IMPROVEMENT GROUP OF COMPANIES INC., J.& I. ENTERPRISES LTD. AND J.& I. ENTERPRISES LTD. CARRYING ON BUSINESS AS BOTH H.I.C.O. HOME IMPROVEMENT GROUP OF COMPANIES INC. AND THE HOME IMPROVEMENT GROUP OF COMPANIES INC.	Supplier made the following misrepresentations which were misleading: you need never paint your home again, that it was guaranteed for 15 years against chipping, flaking or peeling, and that it bonds perfectly to any surface.	In a Consent Order dated December 20, 1985, Kenitex Canada Ltd. agreed to refrain from using the criticized representations which were included in the order, and to restore monies to those consumers who relied on the representations between January 1, 1971 and July 22, 1982. A Promissory Note calling for payment by installments to a total of $11,500 was provided by Debonair Industries Ltd. The suit against the remaining parties was discontinued.